



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 17, 1998

Mr. John Riley
Director, Litigation Support Division
Texas Natural Resource Conservation Commission
P.O. Box 13087
Austin, Texas 78711-3087

OR98-0730

Dear Mr. Riley:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 113337.

The Texas Natural Resource Conservation Commission received a request for information concerning the alleged falsification of a specified individual's application for waterworks personnel certification. You state that you have released some of the requested information. You claim, however, that information that identifies a complaining individual is excepted from disclosure under the informer's privilege. We have considered the exception you claim and have reviewed the documents at issue. You have highlighted the information that you seek to withhold.

Texas courts have recognized the informer's privilege. *See Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969). It protects from disclosure the identities of persons who report activities over which the governmental body has criminal or quasi-criminal law-enforcement authority, provided that the subject of the information does not already know the informer's identity. Open Records Decision Nos. 515 (1988) at 3, 208 (1978) at 1-2. The informer's privilege protects the identities of individuals who report violations of statutes to the police or similar law-enforcement agencies, as well as those who report violations of statutes with civil or criminal penalties to "administrative officials having a duty of inspection or of law enforcement within their particular spheres." Open Records Decision No. 279 (1981) at 2 (citing Wigmore, Evidence, § 2374, at 767 (McNaughton rev. ed. 1961)). The report must be of a violation of a criminal or civil statute. *See* Open Records Decision Nos. 582 (1990) at 2, 515 (1988) at 4-5. You indicate that the report here involves a possible violation of the commission's rules as set out in the Texas Administrative Code. After reviewing the materials and the commission's administrative rules, we do not believe that the informer's privilege is applicable in this instance. *See* 30 T.A.C. § 290.31(a). You must release the requested information.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Don Ballard
Assistant Attorney General
Open Records Division

JDB/ch

Ref: ID# 113337

Enclosures: Submitted documents

cc: Ms. Tona Parker
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